

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

B.P.J., by her next friend and mother, HEATHER
JACKSON,

Plaintiff,

v.

Civil Action No. 2:21-cv-00316
Hon. Joseph R. Goodwin, District Judge

WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY BOARD
OF EDUCATION, WEST VIRGINIA
SECONDARY SCHOOL ACTIVITIES
COMMISSION, W. CLAYTON BURCH in his
official capacity as State Superintendent,
DORA STUTLER in her official capacity as
Harrison County Superintendent, PATRICK
MORRISEY in his official capacity as Attorney
General, and THE STATE OF WEST VIRGINIA,

Defendants,

and

LAINEY ARMISTEAD,

Defendant-Intervenor.

STIPULATION OF UNCONTESTED FACTS

IT IS HEREBY AGREED AND STIPULATED, by and between the undersigned
counsel, that:

1. The Harrison County Board of Education and County Superintendent Dora Stutler
acknowledge and respect that B.P.J. has a female gender identity as recognized in the
Gender Support Plan [HCBOE 00054-58; HCBOE 00060-64].
2. Because, as it is currently drafted, House Bill 3293, codified at West Virginia Code § 18-
2-25d, applies to public secondary schools and states that “[a]thletic teams or sports

designated for females, women, or girls shall not be open to students of the male sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport[,]” and because of the definitions set forth in House Bill 3293, House Bill 3293 prevents B.P.J. from participating on sports teams that are designated for girls and that are sponsored by Bridgeport Middle School, absent an injunction by a court.

3. House Bill 3293 is a West Virginia State law that applies to County Boards of Education, including the Harrison County Board of Education and its County Superintendent. House Bill 3293 provides for private causes of action, and thus imposes liability against County Boards of Education, like the Harrison County Board of Education. While the Harrison County Board of Education and its County Superintendent did not devise and have not adopted House Bill 3293 as their own policy, the Harrison County Board of Education and its County Superintendent, absent an injunction by a court, would be compelled and required to enforce House Bill 3293 because it is a mandatory State law that affords them no discretion.
4. Accordingly, absent the injunction in this action, House Bill 3293 would have prevented the Harrison County Board of Education from permitting B.P.J. to participate on the Bridgeport Middle School girls’ cross-country team during the 2021-2022 school year.
5. B.P.J. participated on the Bridgeport Middle School girls’ cross-country team during the 2021-2022 school year without any disruption.
6. No other Bridgeport Middle School student was displaced by B.P.J.’s participation on the girls’ cross-country team.
7. The Harrison County Board of Education has delegated some level of control, supervision, and regulation of interscholastic athletic events sponsored by Bridgeport Middle School to

the West Virginia Secondary School Activities Commission.

8. The Harrison County Board of Education receives federal funding.

Dated this seventh day of March, 2022.

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